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[Proposed Rules]
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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[FWS-R1-ES-2008-0079; 92210-1117-0000]
RIN 1018-AW18

Endangered and Threatened Wildlife and Plants; Revised Critical
Habitat for the Marbled Murrelet

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; reopening of public comment period.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the reopening of the public comment period for submitting comments on our July 31, 2008 proposed revised designation of critical habitat for the marbled murrelet (*Brachyramphus marmoratus marmoratus*) under the Endangered Species Act of 1973, as amended (Act). The reopened comment period will provide all interested parties with an additional opportunity to submit written comments on the proposed rule. Comments previously submitted for the proposed revised critical habitat designation need not be resubmitted; they have already been incorporated into the public record and will be fully considered in any final decisions.

DATES: We will accept comments from all interested parties until March 13, 2009. Any comments received after the closing date may not be considered in the final decision on the revised designation of critical habitat.

ADDRESSES: You may submit comments by one of the following methods:

Federal eRulemaking Portal: <http://www.regulations.gov>.
Follow the instructions for submitting comments.

U.S. mail or hand-delivery: Public Comments Processing,
Attn: FWS-R1-ES-2008-0079; Division of Policy and Directives
Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive,
Suite 222; Arlington, VA 22203.

We will not accept e-mail or faxes. We will post all comments on <http://www.regulations.gov>. This generally means that we will post any personal information you provide us (see the Public Comments section below for more information).

FOR FURTHER INFORMATION CONTACT: Ken Berg, Field Supervisor, Western Washington Fish and Wildlife Office, 510 Desmond Drive, SE, Suite 102, Lacey, WA 98503-1273, telephone (360) 753-9440, facsimile (360) 753-9008; Paul Henson, Field Supervisor, Oregon Fish and Wildlife Office, 2600 SE 98th Avenue, Suite 100, Portland, OR 97266, telephone (503) 231-6179, facsimile (503) 231-6195; or Michael Long, Field Supervisor, Arcata Fish and Wildlife Office, 1655 Heindon Road, Arcata, CA 95521, telephone (707) 822-7201, facsimile (707) 822-8411. If you use a telecommunications device for the deaf (TDD), call the Federal Information Relay Service (FIRS) at 800-877-8339.

SUPPLEMENTARY INFORMATION:

Public Comments

We intend that any final action resulting from the proposed rule will be as accurate and as effective as possible. Therefore, we request comments or suggestions on the proposed revised designation of critical habitat for the marbled murrelet (*Brachyramphus marmoratus marmoratus*).

We particularly seek comments concerning:

- (1) The reasons why we should or should not revise currently designated critical habitat for the marbled murrelet by removing 254,070 ac (102,820 ha) from the 1996 designation, based on new information that is the best available information indicating that these areas do not meet the definition of critical habitat;
- (2) Specific information on the amount and distribution of marbled murrelet habitat;
- (3) Any foreseeable economic, national security, or other potential impacts resulting from the proposed critical habitat revision, and in particular, any impacts on small entities;
- (4) Our proposal to revise 50 CFR 17.11 to adopt the taxonomic clarification for the marbled murrelet to reflect the change from *Brachyramphus marmoratus marmoratus* to *Brachyramphus marmoratus*; and
- (5) Whether we could improve or modify our approach to revising critical habitat in any way to provide for greater public participation and understanding, or to better accommodate public concerns and comments.

You may submit your comments and materials concerning the proposed revised designation of critical habitat for the marbled murrelet by one of the methods listed in the ADDRESSES section. We will not accept comments sent by e-mail or fax or to an address not listed in the ADDRESSES section.

If you submit a comment via <http://www.regulations.gov>, your entire comment--including any personal identifying information--will be posted on the Web site. If you submit a hardcopy comment that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy submissions on <http://www.regulations.gov>.

Comments and materials we receive, as well as supporting documentation we used in preparing the proposed revised designation of critical habitat for the marbled murrelet, will be available for public inspection on <http://www.regulations.gov>, or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Western Washington Fish and

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Wildlife Office (see FOR FURTHER INFORMATION CONTACT).

Background

On May 24, 1996, we designated 3,887,800 acres (ac) (1,573,340 hectares (ha)) as critical habitat for the marbled murrelet in Washington, Oregon, and California. On July 31, 2008, we published a proposed rule in the Federal Register (73 FR 44678) to revise critical habitat for the marbled murrelet. Under the proposed revised designation of critical habitat, we would remove approximately 254,070 ac (102,820 ha) in northern California and Oregon from the 1996 designation, based on new information indicating that these areas do not meet the definition of critical habitat. This action, if adopted in its entirety, would result in a revised designation of approximately 3,633,800 ac (1,470,550 ha) as critical habitat for the marbled murrelet. In the proposed rule, we also proposed a taxonomic revision of the scientific name of the marbled murrelet from *Brachyramphus marmoratus marmoratus* to *Brachyramphus marmoratus*. We are reopening the comment period to accept peer review comments into the administrative record; however, all interested parties may submit comments and materials on the proposed revised designation of critical habitat for the marbled murrelet. Previously submitted comments for this proposed rule need not be resubmitted. Those comments have been incorporated into the public record and will be fully considered in our final determination.

Author

The primary authors of this document are the staff members of the Division of Endangered Species, Pacific Region, U.S. Fish and Wildlife Service.

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.).

Dated: February 4, 2009.

Jane Lyder,

Assistant Deputy Secretary, Department of the Interior.

[FR Doc. E9-2921 Filed 2-10-09; 8:45 am]

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